

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF PROPOSED RULEMAKING**

The Alcoholic Beverage Control Board ("Board"), pursuant to the authority set forth in D.C. Official Code §§ 25-211(b), 25-431(c) (2006 Supp.) and Mayor's Order 2001-96 (June 28, 2001) as revised by Mayor's Order 2001-102 (July 23, 2001), hereby gives notice of the intent to adopt the following proposed rules that would amend Chapters 15 and 16 of Title 23 of the District of Columbia Municipal Regulations ("DCMR") to establish a new Administrative Review process for initially having cases involving protested license applications heard by Alcoholic Beverage Regulation Administration ("ABRA") staff. The creation of this new Administrative Review process is necessary to allow the Board to handle the processing of protested license applications in a more timely and efficient manner. Additionally, having protested license applications heard by ABRA staff will allow the Board to spend more time adjudicating enforcement proceedings involving alleged alcohol violations of Title 25 of the D.C. Official Code and Title 23 of the DCMR by ABC licensees.

Pursuant to D.C. Official Code § 25-211(b)(2) (2001), these proposed rules are also being transmitted to the Council of the District of Columbia, for a ninety (90) day period of review. The proposed rules will become effective in not less than thirty (30) days from publication of this notice in the D.C. Register, or upon approval by the Council by resolution, whichever occurs later. If the Council does not approve or disapprove the proposed rules by resolution, in whole or in part, within the ninety (90) day review period, the proposed rules shall be deemed disapproved.

Title 23 DCMR is amended by replacing specific subsections of Chapters 15 and 16 as set forth below.

**23 DCMR Chapter 15, APPLICATIONS: NOTICE OF HEARINGS INVOLVING LICENSES, is amended as follows:**

**Section 1502 is amended in its entirety to read as follows:**

**1502. NOTICE OF AN APPLICATION FOR A NEW LICENSE, RENEWAL OF A LICENSE, OR TRANSFER OF A LICENSE TO A NEW LOCATION**

1502.1 The provisions of this section shall govern notice to the public of all applications for new licenses, renewals, or a transfer to a new location, including Manufacturer, Wholesaler, and Retailer licenses, but shall not apply to Solicitor's licenses, Manager's licenses, Caterer's licenses, or to Temporary licenses.

1502.2 Upon acceptance of an application, the Board shall establish the date for the administrative review on the application, pursuant to D.C. Official Code § 25-

431(h). The administrative review shall be scheduled not less than five (5) calendar days and not more than fifteen (15) calendar days after the completion of the forty-five (45) day period to file a protest to a license application.

- 1502.3 The Board shall give timely notice of an application to the entities set forth in D.C. Official Code § 25-421(a).
- 1502.4 All fees associated with the newspaper advertisement required by D.C. Official Code § 25-422 shall be paid for by the applicant. Proof of payment must be submitted to the Board before placards will be provided to the applicant for posting.
- 1502.5 At the beginning of the forty-five (45) day protest period, the applicant shall post at least two (2) notice placards, provided by the Board, on the main entrance doors to the premises so as to be visible from the street, or on such other place on the premises as designated by the Board. The applicant shall continuously leave the placards posted until the completion of the forty-five (45) day protest period set out on the placards.
- 1502.6 The Board shall inspect the premises at least once before the completion of the forty-five (45) day protest period specified on the notice in order to ensure that the placards continue to be prominently and visibly displayed to the public. If the placards have been removed or are posted in a manner not visible from the street, the establishment shall be re-advertised and replacarded for a further forty-five (45) calendar day period.

**23 DCMR Chapter 16, CONTESTED HEARINGS, NON-CONTESTED HEARINGS, PROTEST HEARINGS AND PROCEDURES, is amended as follows:**

**Sections 1600 and 1601 are amended in their entirety into a new section 1600 to read as follows:**

**1600. GENERAL PROVISIONS**

- 1600.1 The provisions of this chapter shall govern the following items:
- (a) Administrative review hearings, roll call hearings, or status hearings regarding the issuance, transfer, or renewal of a license, or the making of substantial changes to a licensee's business operations under authority of the Act;
  - (b) Protest hearings regarding the issuance, transfer or renewal of a license, or the making of substantial changes to a licensee's business operations under authority of the Act;

- (c) Fact-finding hearings on any matter governed by the Act regarding an applicant for a license or a licensee; and
  - (d) Show cause hearings, summary suspension hearings or summary revocation hearings regarding the revocation or suspension of a license issued under the Act.
- 1600.2 The Board may, for good cause shown and in the interest of justice or to prevent hardship, waive any provision of this chapter which is not required by the Act in any proceeding after duly advising the parties of its intention to do so.
- 1600.3 The following hearings held before the Board shall be considered to be contested cases:
- (a) Protest hearings;
  - (b) Show cause hearings;
  - (c) Summary suspension or summary revocation hearings;
  - (d) Cease and desist hearings; and
  - (e) Safekeeping hearings
- 1600.4 The following hearings held before the Board shall not be considered to be contested cases:
- (a) Fact-finding hearings; and
  - (b) Moratorium hearings and other rulemaking hearings
- 1600.5 The provisions of this chapter are intended to be consistent with the District of Columbia Administrative Procedure Act (D.C. Official Code §§ 2-501 *et seq.*). If there is any conflict between this chapter and the District of Columbia Administrative Procedure Act, the District of Columbia Administrative Procedure Act shall govern.
- 1600.6 If there is any conflict within this chapter, provisions of specific application shall supersede those of general application.

A new section 1601 is added to read as follows:

**1601. ADMINISTRATIVE REVIEW**

- 1601.1 Before any license is issued, renewed, or transferred to a new location, and before any substantial change to the operations of a licensed establishment may be made, the Board shall provide notice to the public pursuant to the notice requirements set forth under §§ 1502, 1503, and 1504. Notice provided to the public shall specify the information required by D.C. Official Code § 25-423(b), including the final day of the protest period and the license application's administrative review date.
- 1601.2 The administrative review hearing shall be a non-adversarial proceeding held by the Board's agent at which a list of applications for the licensing actions set out in § 1605.1 and the names of protestants who have filed an objection pursuant to D.C. Official Code § 25-601 shall be read to the public. For purposes of this section, the Board's agent shall be defined as an ABRA Office of the General Counsel employee at or above the Grade 12 level, excluding the ABRA General Counsel.
- 1601.3 If no written objection to an application has been received by the Board during the protest period, the Board's agent shall hold an administrative review on the application within fifteen (15) calendar days after the end of the protest period. An objection must be received by the Board prior to the end of the protest period to be considered timely filed.
- 1601.4 If an objection, in the form of a protest or by Protest Petitions (as set forth in § 1800.2 of this title), has been received by the Board during the protest period, the Board's agent shall so state and the Board's agent shall set a date for a status hearing before the Board unless the scheduling of a roll call hearing before the Board is necessary as required by § 1602A.8. In setting a date for a status hearing, the Board's agent may also approve a joint request by the parties to schedule a settlement conference prior to the status hearing date.
- 1601.5 Each applicant, and each person submitting a protest shall attend the administrative review hearing in person or appear through a designated representative.
- 1601.6 Failure to appear at the administrative review hearing either in person or through a designated representative may result in denial of the license application or dismissal of a protest unless good cause is shown for the failure to appear. Examples of good cause for failure to appear include, but are not limited to:
- (a) sudden, severe illness or accident;

- (b) death or sudden illness in the immediate family, such as spouse, partner children, parents, siblings;
- (c) incarceration; or
- (d) severe inclement weather.

1601.7 A recommendation by the Board's agent to deny a license application or dismiss a protest for failure to attend the administrative review shall be forwarded to the Board for consideration in writing. The Board's decision to adopt or not adopt the recommendation of the Board's agent to deny a license application or dismiss a protest for failure to appear shall be sent to the parties in writing. A request for reinstatement with the Board must be filed within ten (10) days after notification from the Board of the dismissal or denial. In reviewing the request, the Board shall consider whether, in the discretion of the Board, the party has shown good cause for his or her failure to appear at the administrative review.

1601.8 The Board's agent shall schedule a roll call hearing rather than a status hearing before the Board when:

- (a) a dispute exists regarding whether the placards at an applicant's premises have remained visible to the public for a full forty-five (45) calendar days;
- (b) a legal issue is raised that would preclude the Board from granting the application, including but not limited to:
  - (1) the applicant's distance from a school or recreation center operated by the D.C. Department of Recreation;
  - (2) whether the applicant's proposed establishment is located in a residential-use district; and
  - (3) whether the applicant's voluntary agreement prohibits the application;
- (c) a dispute exists regarding the legal standing of a party or whether a party has raised legally permitted protest issues; or
- (d) any other legal issue arises that requires a decision by the Board. When a dispute arises regarding the applicant's distance from a school or recreation center operated by the D.C. Department of Recreation, the Board's agent shall request that a measurement be conducted by ABRA in advance of the scheduled roll call hearing.

- 1601.9 At the administrative review, the Board's agent shall have the authority to:
- (a) regulate the course of the hearing;
  - (b) request the persons appearing at the hearing to state their respective positions concerning any issues in the proceeding and their support of or opposition to such issues;
  - (c) request or accept written documentation from the parties including letters of representation;
  - (d) identify the parties with standing and the filed protest issues, if undisputed;
  - (e) approve a joint request from the parties for a scheduled settlement conference;
  - (f) grant a request to continue the administrative review consistent with the requirements of D.C. Official Code § 25-441 and § 1705;
  - (g) adjourn a hearing and establish the date when the hearing will be continued;  
and
  - (h) take any other action authorized by, or necessary under, this section.
- 1601.10 Upon the scheduling of an application for administrative review with the Board's agent, all parties shall be prohibited from participating in any ex parte communication with the Board's agent relevant to the merits of the proceeding. This shall include any oral or written communication not in the public hearing record with respect to which reasonable prior notice is not given to all parties to the proceeding.
- 1601.11 The administrative review shall be open to the public and transcribed by a certified court reporter.

**Section 1602 is amended in its entirety to read as follows:**

**1602. ROLL CALL HEARING**

- 1602.1 The roll call hearing shall be a non-adversarial proceeding held by the Board to address unresolved legal and factual issues and disputes identified by the Board's agent at the administrative review.
- 1602.2 Each applicant, and each person submitting a protest shall attend the roll call hearing in person or appear through a designated representative.

1602.3 Failure to appear in person or through a designated representative may result in denial of the license application or dismissal of a protest, unless, in the discretion of the Board, good cause is shown for the failure to appear. Examples of good cause for failure to appear include, but are not limited to:

- (a) sudden, severe illness or accident;
- (b) death or sudden illness in the immediate family, such as spouse, partner, children, parents, siblings;
- (c) incarceration; or
- (d) severe inclement weather.

A request for reinstatement with the Board must be filed within ten (10) days after notification from the Board of the dismissal or denial.

1602.4 The Board shall hear from the parties at the roll call hearing regarding any unresolved legal issues listed in § 1602A.8. The Board shall either announce its decision at the roll call hearing or take its decision on the unresolved legal issues under advisement and schedule the matter for a status hearing. A dispute identified at the administrative review regarding whether the placards at an applicant's premises have remained visible to the public for a full forty-five (45) calendar days will be heard by the Board at the roll call hearing. If the Board determines that the placards posted at an applicant's premises pursuant to D.C. Official Code § 25-423 have not remained visible to the public for a full forty-five (45) calendar days, up to and including the date of the roll call hearing, the Board shall reschedule the roll call hearing for a date at least forty-five (45) calendar days after the originally scheduled hearing.

1602.5 If a rescheduling is ordered, the applicant shall post new placards for another forty-five (45) calendar day period and no action on the application shall be taken until the administrative review date.

1602.6 Whenever a rescheduling is ordered, further protests may be filed until the completion of the forty-five (45) day protest period set out on the placards.

1602.7 The roll call hearing shall be open to the public and transcribed by a certified court reporter.

Section 1603 is amended in its entirety to read as follows:

**1603. STATUS HEARING**

- 1603.1 The status hearing is a non-adversarial proceeding held by the Board at which the parties inform the Board of their progress in reaching a cooperative/voluntary agreement.
- 1603.2 The Board in its discretion may set a protest hearing or another status hearing if the Board believes that the parties are close to reaching a cooperative/voluntary agreement or that mediation might be helpful.
- 1603.3 Failure to appear in person or through a designated representative may result in denial of the license application or dismissal of a protest, unless, in the discretion of the Board, good cause is shown for the failure to appear. A request for reinstatement with the Board must be filed within ten (10) days of the dismissal or denial date.
- 1603.4 A status hearing shall be open to the public and transcribed by a certified court reporter.

Copies of the proposed rulemaking can be obtained by contacting Fred Moosally, General Counsel, Alcoholic Beverage Regulation Administration, 941 North Capitol Street, N.E., 7<sup>th</sup> Floor, Washington, D.C. 20002. All persons desiring to comment on the proposed rulemaking must submit their written comments, not later than thirty (30) days after the date of the publication of this notice in the D.C. Register, to the above address.

## DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority (DCHA) hereby gives notice, pursuant to D.C. Official Code Section 6-203 (2007 Ed.), of its intent to adopt the following proposed amendments and restatements of selected provisions of Chapters 60, 62, 64, and 65 of Title 14 of the District of Columbia Municipal Regulations in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The DCHA's rulemaking authority is found in the District of Columbia Housing Authority Act of 1999 at D.C. Official Code, § 6-202.

The proposed amendments contain the rules governing: definitions, repayment of security deposits, minimum rent, transfer policy, voluntary and involuntary termination of tenancy, Lessee responsibilities, charges to the Lessee for repairs, and DCHA's right to enter the dwelling unit. These proposed regulations were previously published in the D.C. Register on May 18, 2007 at 54 DCR 5006. Substantial changes were made to the proposed regulations, necessitating a second publication of the regulations as proposed.

Amendment: amend and restate Section 6099, Definitions, of Chapter 60, Low Rent Housing: General Provisions, to include the following definitions:

**CHAPTER 60 LOW RENT HOUSING: GENERAL PROVISIONS****6099 DEFINITIONS**

**Development** - A DCHA property, including but not limited to buildings, the common areas of the buildings and grounds associated with all the buildings on either a mixed population, senior or general population public housing property owned by DCHA.

**Handicapped Assistance Expenses** - reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a handicapped or disabled family member and that are necessary to enable a family member (including the handicapped or disabled member) to be employed; Provided, that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

**Lessee** -The "Lessee" is the individual(s) that sign(s) the Lease with the Authority. The Lessee is also deemed a Lessee. Each Lessee is individually, jointly and severally responsible for performance of all obligations under the lease including, but not limited to, the payment of rent and additional rent, as defined herein. No individual, other than the signatory to the lease, is deemed to be a Lessee or have any rights of a Lessee.

**Leased Premises** - Leased Premises includes the Lessee's dwelling unit as specified in the lease and any other buildings or areas that are provided for the exclusive use of the Lessee. The Leased Premises are located in a federally assisted public housing development owned or assisted by the Authority.

Amendment: add or amend, as appropriate, Chapter 62, Low Rent Housing: Rent and Lease, to read as follows:

**CHAPTER 62            LOW RENT HOUSING: RENT AND LEASE**

**6204                    REPAYMENT OF SECURITY DEPOSITS AND MOVE-OUT  
INSPECTIONS**

6204.10            The Lessee shall return all keys and other entry devices whenever the unit is vacated, failure to return keys or other entry devices will result in a charge in accordance with a schedule of charges as posted in the property management office.

**6205                    DWELLING LEASE**

6205.1            Each family admitted for occupancy in low rent housing, operated by DCHA, shall enter into a Dwelling Lease with DCHA, the Dwelling Lease shall have a twelve (12) month term which states the Lessee rent to be charged, and the conditions governing occupancy.

(a)            The conditions governing occupancy shall be in accordance with HUD requirements, and;

(b)            The Lease shall be automatically renewed for successive terms of one month with each term commencing to run on the 1st day of each month, unless terminated by either DCHA or the Lessee.

6205.2            The Lessee shall have the right to the exclusive use of the Leased Premises, including the dwelling unit identified in the lease and in the case of a townhouse, row house or single family home, all buildings or additional areas provided for the exclusive use of the Lessee, including the yard and any outbuildings, subject to the restrictions and obligations contained in the Dwelling Lease.

6205.3            Each Dwelling Lease shall be executed prior to occupancy. DCHA shall conduct a move-in inspection in accordance with Section 6505 of this Title prior to execution of the lease.

6205.4            Each Dwelling Lease shall be administered in accordance with the provisions stipulated, and kept current at all times.

6205.5            The DCHA shall add names to the Dwelling Lease, after initial occupancy only in

accordance with Section 6117 of this Title. Any person using or occupying the Leased Premises not in compliance with Section 6117 of this Title is an unauthorized occupant without tenancy or other rights under the Dwelling Lease, including any person using or occupying the Leased Premises without approval from DCHA.

6205.6 Changes to the Dwelling Lease shall be made only in writing and shall be signed by the Lessee, and an authorized representative of DCHA, except the following changes, which may be executed unilaterally by DCHA:

- (a) Any change in rent, either an increase or decrease, shall be stated in a special supplement which shall, upon issuance, become part of the lease;
- (b) Changes to implement excess utility charges;
- (c) Any revision to reflect change in family composition other than head of household, consistent with Subsection 6205.5;
- (d) Changes to implement Subsection 6205.9;
- (e) Late charges assessed pursuant to Subsection 6206.5;
- (f) Special supplements to a lease executed pursuant to Subsection 6205.10;
- (g) Changes in the amount of security deposit provided in Section 6203;
- (h) Changes in DCHA's policies, rules and regulations; and
- (i) Charges assessed pursuant to the Schedule of Charges posted in the Property Manager's Office.

6205.7 The DCHA shall provide the Lessee with a copy of any changes to the Dwelling Lease made in accordance with Subsection 6205.6.

6205.8 Unless a shorter time period is provided, a new Dwelling Lease shall be executed, within thirty (30) days whenever the following conditions occur:

- (a) The status of the head of household is altered pursuant to Chapter 64 of this Title; or
- (b) When a family is transferred from one dwelling unit to another.

6205.9 Any Lessee wishing to vacate his or her unit shall do so in accordance with Section 6404 of this Title. Lessees wishing to vacate prior to the end of the month shall be liable for the entire month's rent.

6205.10 The DCHA may unilaterally execute a special supplement to the new lease which

assesses the amount due under the prior lease.

6205.11 Lessees who execute a new Dwelling Lease as a result of a transfer from one unit to another, or as a result of any other requirement for a new Dwelling Lease, shall remain liable for any delinquent rent or other charges relating to the prior lease.

## **6210 MINIMUM RENT**

6210.1 Based on information provided pursuant to Sections 6118, 6119, and 6200 the rent charged shall be the lesser of:

- (a) A fixed amount determined by DCHA for the Development ("market-based rent"); or
- (b) An amount based on a percentage of household income; or
- (c) An amount or percentage fixed from time to time; or
- (d) \$0, for families which DCHA has determined do not have any adjusted income, as defined in Subsection 6099.1, as determined by DCHA at certification or recertification.

Amendment: add or amend, as appropriate, Chapter 64, Public Housing Transfer Policy, to read as follows:

## **CHAPTER 64 PUBLIC HOUSING TRANSFER POLICY**

### **6400 TRANSFER POLICY**

6400.6 Upon acceptance of the new dwelling unit, the Lessee must execute a new Dwelling Lease. All causes of action of any nature whatsoever available to DCHA at the previous Leased Premises governed by the Dwelling Lease, shall be automatically transferred to, and actionable by, DCHA at the new unit after transfer, whether such transfer is mandatory or voluntary.

### **6403 VOLUNTARY TERMINATION OF TENANCY**

6403.1 Termination of Tenancy by Lessee requires that the Lessee, all household members, guests as well as all others defined as any person under the Lessee's control or on the Leased Premises with Lessee's consent; including but not limited to, any individuals occupying or using the Leased Premises for any purpose with actual or implied consent of the Lessee (hereinafter referred to collectively as "others"), vacate the Leased Premises on or before the date specified in Lessee's written notice.

- 6403.2 Lessee may terminate tenancy by giving:
- (a) At least thirty (30) days notice; and
  - (b) The notice must be in writing; and
  - (c) On forms required by the DCHA; and
  - (d) Submitted to the property manager.
- 6403.3 The DCHA shall follow the requirements of Chapters 62 and 65 of this Title relating to termination of tenancy.
- 6403.4 Lessee shall leave the Leased Premises in as clean and good condition as Lessee received at the start of Lessee's occupancy; wear and tear excepted; and return all keys and all other entry devices to the DCHA.
- 6403.5 Given the limited availability of publicly assisted housing, absence of the Lessee for longer than ninety (90) consecutive days, without written notice to the Authority, shall be deemed an abandonment of the Leased Premises and a termination of the Lease by the Lessee, regardless of the reason for the absence, including death, incarceration, or disability.
- (a) If there are no remaining household members, any personal property remaining in the Leased Premises by the Lessee shall be treated as abandoned;
  - (b) DCHA shall have the right to reenter and secure the Leased Premises; and
  - (c) DCHA shall contact the person(s) who the Lessee has designated, if any, in writing, to take possession of Lessee's personal property. Access to the Leased Premises will be granted only to any such designated person, or to the Lessee's personal representative, administrator or guardian appointed by the Court.
- 6403.6 In the event that a Lessee gives written notice to DCHA that the Lessee will be absent for longer than ninety (90) but less than one hundred eighty (180) consecutive days, due to 24 (twenty four) hour medical treatment or nursing care:
- (a) The Lessee must vacate the unit in accordance with Subsection 6403.8; and
  - (b) Within thirty (30) days of discharge from medical treatment, the former Lessee must notify DCHA of their intent to return to public housing; and

- (c) The former Lessee must apply for public housing and complete all appropriate documentation pursuant to Section 6101; and
- (d) If the former Lessee has been determined as eligible for public housing in accordance with Chapter 61 of this Title, the DCHA shall allow the Lessee to return to the first available appropriate unit. The assignment of an appropriate dwelling unit will be based upon suitable type or size or unit, consistent with the objectives of Title VI of the Civil Rights Act of 1964 and applicable HUD regulations and requirements and Chapter 61 of this Title.

6403.7 If the Lessee gives notice that the absence is expected to be greater than 180 consecutive days it will be deemed to be notice of intent to terminate the Lease. Remaining household members may apply for a new lease in accordance Subsection 6403.6 of this Chapter.

6403.8 If the Lessee is no longer in occupancy of the unit or is deceased, a remaining adult household member already listed on the Dwelling Lease must submit a written application to become head of household to the property manager within thirty (30) days of the date the Lessee vacates the Leased Premises or dies, in order to sustain continued occupancy for the remaining household members at the Leased Premises. Details on the application process and exclusions from this rule are as follows:

- (a) This subsection does not apply if the head of household vacates the unit after the issuance of a notice to correct or vacate, notice of lease termination in the case of failure to pay rent or a notice to vacate. In such circumstances, the remaining family members must vacate the unit. If the remaining family members do not vacate the unit, they shall be deemed unauthorized occupants.
- (b) The remaining adult household member submitting an application to be made head of household must have been a household member listed on the Dwelling Lease for at least one year prior to the date the Lessee vacates the Leased Premises or dies, in order to sustain continued occupancy for the remaining household members at the Leased Premises.
- (c) The applicant to be made Lessee, and if applicable, the other remaining Household Members must be eligible for continued occupancy and not be in violation of the Dwelling Lease. The Authority will screen the application in accordance with federal law and regulations as well as DCHA's admissions and occupancy policies and regulations. Applicant(s) will be notified in writing of the disposition of the application:

- (1) If the application is approved, the new Lessee shall enter into a new lease agreement with the Authority within seven (7) working days of the date of approval of the application; and
  - (2) Any balance on the rental account existing prior to a remaining household member becoming the Lessee is the responsibility of the newly designated Lessee as head of household. Any obligations for rent, causes of action arising under the original Lease, stipulations of settlement, consent judgments, judgments, or repayment agreements of the prior Lessee shall be deemed part of the new Dwelling Lease and tenancy and shall be the responsibility of the new Lessee designated as head of household and actionable against such new Lessee; or
  - (3) If the applicant and other remaining Household Members are not approved to continue to occupy the Leased Premises, and the application is denied at the sole discretion of DCHA, and such remaining members do not vacate, they will be deemed unauthorized occupants and thus occupying premises without the consent of DCHA and shall be subject to eviction by the DCHA.
- (d) In circumstances where the remaining family members are minors:
- (1) If the remaining household consists of adult family and minor family members, only the eligible remaining adult household members may submit an application to be made head of household in accordance to this subchapter. The minors will not be made head of household; or
  - (2) If there are no adults remaining in the household, an application for head of household may be submitted from an adult that provides sufficient documentation to DCHA that a care giving relationship exists between the applicant and the minors listed on the family composition. Documentation supporting that a care giving relationship exists between the minors listed on the family composition must be provided to DCHA with the application to be made head of household.

6403.9

The Lessee shall be liable for rent until the earlier of the time the DCHA has taken possession of the Unit, or such time as all of the following are completed:

- (a) The proper written notice has been given;
- (b) The required vacate forms are completed;
- (c) The keys are turned in; and any other entry devices; and

- (d) Lessee and all household members, guests as well as all others defined as any person under the Lessee's control or on the Leased Premises with Lessee's consent; including but not limited to, any individuals occupying or using the Leased Premises for any purpose with actual or implied consent of the Lessee (hereinafter referred to collectively as "others"), have vacated the Leased Premises.

**6404****TERMINATION OF TENANCY BY DCHA**

- 6404.1 DCHA shall not terminate the lease other than for serious or repeated violation of material terms of the lease. Violations of an obligation of tenancy refer only to those obligations which are contained in a valid, written lease or in the federal or local regulations pertaining to public housing tenants or in the D.C. Housing Code. There is no time limitation on bringing an action based on a breach of the lease.
- 6404.2 If DCHA determines that a Lessee is in violation of the Dwelling Lease, except for lease violations predicated on the performance of an illegal act or non-payment of rent, the Lessee shall be issued a thirty (30) day notice to correct or vacate, stating in writing the violation(s) which provides the basis for the termination.
- (a) The notice shall inform the Lessee the applicability of his or her right to file an administrative complaint in accordance with chapter 63 of this title.
- (b) If a Lessee has filed a complaint requesting an administrative determination of his or her rights, in accordance with chapter 63 of this title, in response to service of a notice to correct or vacate or a notice of lease termination in the case of failure to pay rent and has not prevailed, the Lessee shall be issued a notice to vacate, as the time to cure has past and the Lessee shall be subject to legal action to gain possession of the unit (eviction).
- 6404.3 The DCHA shall issue a thirty day (30) written notice to cure or vacate in the case of failure to pay rent.
- 6404.4 DCHA shall issue a thirty (30) day notice to vacate to Lessees, for lease violations, predicated on the performance of an illegal act.
- 6404.5 Pursuant to 14 DCMR § 6403, DCHA will not issue a thirty (30) day notice to correct or vacate, or notice to vacate, where DCHA has determined that the head of household responsible for the dwelling unit under the Dwelling lease has abandoned the unit or is deceased.

- 6404.6 Lessees who refuse to vacate their unit after appropriate notice shall be subject to legal action to gain possession of the dwelling unit (eviction).
- 6404.7 The Lessee shall be solely responsible for the protection, care and disposition of the Lessee's possessions during, and after an eviction.
- 6404.8 Where DCHA has excluded from its procedure any grievance concerning an eviction or termination of tenancy based on a Lessee's creation or maintenance of a threat to the health or safety of other Lessees or DCHA employees, the Lessee against whom an eviction action has been filed in court shall be afforded the opportunity to examine all relevant documents, records, and regulations of DCHA prior to trial for the purpose of preparing a defense.
- 6404.9 Any document not made available after request by the Lessee shall not be relied on by DCHA at the trial.

Amendment: amend or add, as appropriate, Chapter 65, Low Rent Housing: Maintenance and Inspection, to read as follows:

## **CHAPTER 65        LOW RENT HOUSING: MAINTENANCE AND INSPECTION**

### **6500        LESSEE RESPONSIBILITIES**

- 6500.1 Lessees shall be responsible for their actions and the actions of household members, guests and others; "others" is defined as any person under the Lessee's control or on the Leased Premises with Lessee's consent; including but not limited to, any individuals occupying or using the Leased Premises for any purpose with actual or implied consent of the Lessee, including but not limited to, for the maintaining of their units in accordance with the provisions of the dwelling lease, including but not limited to, the following responsibilities:
- (a) To comply with all obligations imposed upon Lessees by applicable provisions of building, and other District of Columbia housing codes materially affecting health and safety;
  - (b) To keep the premises (and such other areas as may be assigned for his or her exclusive use) in a clean and safe condition;
  - (c) To dispose of all ashes, garbage, rubbish, and other waste from the premises in a sanitary and safe manner;
  - (d) To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air conditioning and other facilities and appurtenances, including elevators;

- (e) To refrain from, and to cause his or her household, guests and others, to refrain from, destroying, defacing, and/or damaging/removing any part of the premises or project; including but not limited to storing, hanging or leaving household or other personal property of any type, including clothes, outside the Leased Premises;
- (f) Not to assign the lease or to sublease the premises;
- (g) Lessee shall have no other residence;
- (h) Not to provide accommodations for boarders or lodgers;
  - (1) Guests shall not stay overnight for more than ten (10) consecutive days without the prior written permission of DCHA; and
  - (2) Guests shall not stay overnight for more than thirty (30) non-consecutive days within a twelve (12) month period without the prior written permission of DCHA;
- (i) To use the premises solely as a private dwelling for the Lessee and the Lessee's household as identified in the lease, and not to use or permit its use for any other purpose;
- (j) To abide by necessary and reasonable rules, regulations and policies, issued by DCHA for the benefit and well-being of the housing project and the Lessees and which shall be posted in the Development office and incorporated by reference in the lease;
- (k) To pay reasonable charges (other than normal wear and tear) for the repair of damages to the premises, project building, facilities or common areas caused by the Lessee, household members, guests and any others under the Lessee's control or on the Leased Premises with Lessee's consent; including but not limited to, any individuals occupying or using the Leased Premises for any purpose with actual or implied consent of the Lessee (hereinafter referred to collectively as "others");
- (l) To conduct himself or herself, and cause other persons who are on the premises with his or her consent to conduct themselves, in a manner which will not disturb his or her neighbors' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition; including but not limited to:
  - (1) Take precautions to prevent fires and not use any appliance that is a fire hazard. Not disable any fire alarm device or cause a false fire alarm, or generally permit or do anything, including storing

excess amounts of personal property; and

- (2) Not remove or tamper with any smoke detector, including removing any working batteries, so as to render the smoke detector inoperative.
- (m) To keep no dogs, cats or other animals in or on the premises, unless specifically permitted by DCHA in writing;
- (n) Not to place fixtures, signs or fences in or about the premises without the prior written permission of DCHA. No repairs or alterations to the Leased Premises may be made, including, but not limited to, painting, wallpapering, doors, gates, window bars, carpets, storage sheds, and antenna or satellite dishes, without the prior written approval of DCHA. Upon completion, any such repairs or alterations, made with or without prior written consent, become part of the Leased Premises. If the Lessee changes locks, installs an alarm or security system, or adds locks to the dwelling unit, he or she shall notify DCHA and shall make duplicate keys available to and or provide DCHA with access codes in order for DCHA to gain emergency access; and
- (o) Not to permit anyone who is currently barred from the Leased Premises or Development from occupying, staying overnight, visiting the Leased Premises, or inviting them to the Leased Premises or anywhere else on the Development at any time for any purpose, unless authorized in writing by DCHA in advance.

6500.2 At those properties where there is a defined front or rear yard assigned to the Lessee for his or her exclusive use, the Lessee shall be responsible for maintaining the individually defined lawn areas around his or her respective dwelling unit, cutting the grass, and keeping his or her lawn free of trash and garbage.

6500.3 Lessees who do not maintain these areas shall be given forty-eight (48) hours notice by DCHA to correct unsightly lawn areas. Lessees who fail to comply within forty-eight (48) hours of being notified by DCHA shall be in violation of the Dwelling Lease.

6500.4 Lessees shall report immediately to DCHA of any need for repairs to the Leased Premises or of any unsafe conditions in the common areas or the grounds surrounding the Leased Premises. Notification of repairs shall be in writing or by a telephone call to DCHA's Control Center and the Lessee shall obtain a control number for each repair. The number for the Control Center can be obtained from the Management office or the Central Office. Failure to obtain a control number shall result in the rebuttal presumption that no repair request was made to DCHA.

- 6500.5 Lessees shall conserve energy and water and preclude excess use of water, gas and/or electricity including but not limited to non-routine washing of Lessee's or household member's vehicles or any other excess use of utilities.
- 6500.6 Lessees shall not have waterbeds on the Leased Premises without prior written approval of DCHA, which approval may be withheld in DCHA's sole discretion.
- 6500.7 Lessee's shall not to permit anyone who is currently barred from the Leased Premises or Development from occupying, staying overnight, or visiting the Leased Premises or invite them to the Leased Premises or anywhere else on the Development at any time for any purpose, unless authorized in writing by DCHA in advance. Any person not identified in Subsection 9600.2 as an authorized person may be subject to the issuance of a Bar Notice for the period of time specified in the Bar Notice.
- 6500.8 Lessee is strictly liable for all actions or inactions of all guests, household members, and all others on the property with the consent of Lessee and/or the consent of household members; "others" defined as any person under the Lessee's control or on the Leased Premises with Lessee's consent; including but not limited to, any individuals occupying or using the Leased Premises for any purpose with actual or implied consent of the Lessee (hereinafter referred to collectively as "others"); the aforementioned parties, including the Lessee, are obligated to the following:
- (a) To not engage in the manufacture, sale, or distribution of any alcoholic beverages or engage in the open use of alcoholic beverages in any common areas in the Development or otherwise engage in use of alcoholic beverages in a manner that impairs the physical environment of the Development or may be a threat to the health, safety or right to peaceful enjoyment of the Development by other residents, service providers, or DCHA staff;
  - (b) To not engage in any criminal activity that threatens the health, safety or right to peaceful enjoyment of the Development;
  - (c) To not engage in:
    - (1) Any drug-related criminal activity on or off the Leased Premises or the Development; or
    - (2) Violent criminal activity or be in possession of any firearm or ammunition for a firearm;

- (d) To not assist Lessee, guests, household members, any others on the property with the consent of Lessee and or the consent of household members; and any others as identified in the Dwelling Lease from:
  - (1) Fleeing to avoid prosecution or custody or confinement after conviction for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which such person is fleeing; or
  - (2) Violating a condition of probation or parole imposed under federal or state law; or
- (e) To assure that others under the Lessee's control, as identified in the Dwelling Lease, not engage in any:
  - (1) Criminal activity that threatens the health, safety or right to peaceful enjoyment of the Development by other lessees; or
  - (2) Any Drug-related Criminal Activity on the Leased Premises or the Development.

**6503****CHARGE TO THE TENANT FOR REPAIRS AND SERVICES**

## 6503.6

In the event of a fire caused intentionally or by the neglect or negligence of the Lessee, household members, guests or others under the control of the Lessee or the control of household members, then Lessee is subject to the following:

- (a) Lessee is responsible for the payment of the lesser of the:
  - (1) Estimated costs for the repair of the fire damaged Leased Premises, or
  - (2) The insurance deductible, if any, afforded by any insurance policy held by DCHA and applicable to the damages caused by the fire at the Leased Premises.
- (b) DCHA may terminate the Lease for any fire on the Leased Premises caused intentionally or negligently by the Lessee or others.

**6504****RIGHT TO ENTER DWELLING**

## 6504.1

The DCHA shall, upon written notice to the Lessee of at least two (2) days, be permitted to enter the dwelling unit during reasonable hours for the purpose of performing routine inspections or maintenance, make improvements or repairs, take photographs, record and document the condition of the unit or repairs, or to show the Leased Premises for releasing.

- 6504.2 The DCHA shall enter the Leased Premises at any time without advance notice when it has cause to believe that an emergency exists, or if DCHA determines the Leased Premises have been abandoned or when the Lessee has agreed to such entry.
- 6504.3 In the event that the Lessee and all adult household members are absent from the premises at the time of entry, DCHA shall leave on the premises a written statement specifying the date, time and purpose of entry prior to leaving the premises.
- 6504.4 If the Lessee changes or adds the following to the dwelling unit, he or she shall notify DCHA and shall make duplicate keys, entry codes, or any applicable access to the dwelling available to DCHA, within twenty four (24) hours of the change:
- (a) Any locks, and/or;
  - (b) Any entry devices, including but not limited to any and all security devices.
- 6504.5 The Authority may enter the Leased Premises and change the locks to secure the Leased Premises without advance notice if DCHA believes the Leased Premises to be abandoned. After DCHA has changed the locks and entered into the Leased Premises that it believed to be abandoned, DCHA shall post a notice on or under the Leased Premises door which will instruct the Lessee to report to the property management office.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publications of this notice in the D.C. Register. Comments should be filed with the Office of the General Counsel, DCHA, 1133 North Capitol Street, Suite 210, Washington, DC 20002-7599. Copies of these proposed rules may be obtained from the DCHA at the same address. Alternatively, copies of the rules can be requested from and comments may be sent to [patricia.gracyalny@dchousing.org](mailto:patricia.gracyalny@dchousing.org).

## THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority (DCHA) hereby gives notice, pursuant to D.C. Code Section 6-203 (2007 Ed.), of its intent to adopt the following proposed amendments and restatements of selected provisions of Title 14 of the District of Columbia Municipal Regulations in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The DCHA's rulemaking authority is found in the District of Columbia Housing Authority Act of 1999 at D.C. Official Code, § 6-202.

The proposed amendments to of Chapter 61, Low Rent Housing: Admissions and Recertification, contain the rules governing: Adding Individuals to the Lease, Recertification, Reporting Change of Income and Interim Recertification, and Live-In Aides. There are proposed new chapters of the Housing Choice Voucher Program. The proposed adoption of new chapters of Title 14, DCMR are as follows: "Chapter 77: Household Composition and Occupancy Standards," "Chapter 78: Participant Payments", "Chapter 79: Participant Family Obligations", "Chapter 80: Issuance of Vouchers," "Chapter 87: Portability of Assistance," "Chapter 90: Contract Terminations," and "Chapter 91: Debts and Repayment Agreements."

**CHAPTER 61****ADMISSION AND RECERTIFICATION**

## Secs.

- 6100. Introduction to the Application Process
- 6101. Application
- 6102. Application Review
- 6103. Waiting Lists
- 6104. Temporary Closure of the Waiting List
- 6105. Preferences for Public Housing
- 6106. Eligibility
- 6107. Eligibility Determination
- 6108. Income Limits
- 6109. Applicant Family Selection Criteria
- 6110. Occupancy Standards
- 6111. Tenant Assignment
- 6112. Tenant Selection and Assignment: Families with Disabilities
- 6113. Tenant Selection and Assignment: Comprehensive Modernization Properties and New Developments
- 6114. Move-In Requirements
- 6115. Tenant Admissions and Occupancy: Redeveloped and Special Needs Properties
- 6116. Tenant Selection and Assignment: Elderly-Only Designations
- 6117. Adding Individuals to the Lease
- 6118. Recertification
- 6119. Reporting Change of Income and Interim Recertification
- 6120. Retroactive Rent Charges
- 6121. Live-in Aides
- 6122. Reasonable Accommodation Notification
- 6123. Grievance Procedures

**6100 INTRODUCTION TO THE APPLICATION PROCESS**

- 6100.1 DCHA owns and operates rental housing properties in the District of Columbia under a program known as public housing and administers three rent subsidy programs that contract with private landlords to provide rental housing to low and moderate income individuals and families. The Housing Choice Voucher Program, including project based Partnership vouchers (see Chapter 92), and homeownership vouchers (see Chapter 93) and the Moderate Rehabilitation Program are rental assistance programs funded primarily by the federal government. The Rent Supplement Program is rental assistance for individuals, sponsors and projects, funded by the District of Columbia. Households in all programs pay rent as a percentage of their income, which are capped in some cases in the public housing program, but otherwise irrespective of the market rent value of the leased premises.
- 6100.2 In order to receive public housing or rental assistance through DCHA, a person must file an application with the Client Placement Division in accordance with Section 6101. Once the application is filed, it will be dated and the applicant will be placed on the appropriate waiting list(s) in accordance with Section 6103.
- 6100.3 Periodically, as vacancies occur or are anticipated at DCHA owned and operated properties or as rental assistance become available, applicants at the top of the applicable waiting list(s) will be interviewed in order to obtain and verify any information necessary to make an eligibility determination all in accordance with Sections 6106, 6107, 6108, and 6109. Eligible applicants for public housing will be placed in a selection pool and offered housing that meets their occupancy and accessibility needs as the appropriately sized units become available, pursuant to Sections 6112 and 6113. Eligible applicants for the rent subsidy programs will be placed in a selection pool and offered a voucher as vouchers become available in accordance with Chapter 76 or 95 of Title 14.
- 6100.4 The determination of eligibility and the process for the ultimate determination of ineligibility, including the informal conference and the option to request a review by an independent third party reviewer, for public housing applicants are found in Section 6107. The procedures for requesting an informal review of any determination of ineligibility for applicants for the rent subsidy programs are found in Chapter 89 hereof.
- 6100.5 This Chapter also contains certain information for public housing residents on continued occupancy, such as recertification, adding individuals to the lease, and live-in aides in Sections 6116 and 6115.
- 6100.6 Information on continuing occupancy and other key provisions governing the rent subsidy programs are set forth in Chapters 76 through 95 of this Title 14.

**6101 APPLICATION**

- 6101.1 For the purposes of this Chapter, the term "application" means a prescribed form, and any additional supporting documents, required to be completed by each person seeking admission to public housing or participation in DCHA's rent subsidy programs.
- 6101.2 Each person seeking public housing owned and operated by DCHA or rental assistance through the Rent Subsidy Programs is required to file an application with DCHA. A person who has filed an application is referred to as an applicant.
- 6101.3 Each applicant shall receive written notification of receipt of application.
- 6101.4 When an applicant applies for a DCHA housing assistance program his or her application is placed on the waiting list of all programs for which the applicant has applied, in accordance with Section 6103 after review of the application under 6102.

**6102 APPLICATION REVIEW**

- 6102.1 Upon submission of an application, the Client Placement Division will assign a date and time to the application for placement on the waiting list.
- 6102.2 A review of all applications shall be conducted by the Client Placement Division based on the data contained in the signed application. This review is limited to determining the completeness of the application.
- 6102.3 Where a review of an application finds the application is incomplete, the Client Placement Division will contact the applicant and request the missing information.
- 6102.4 At the time an applicant is placed on the waiting list, the Client Placement Division will review the application for a debt to any public housing or rental assistance program. If a debt is found, the Client Placement Division will send a notice to the applicant of the debt, information on how to obtain the amount of any debt, and qualification, if any, for any special abatement programs. The applicant will be required to resolve the debt issue before they can complete the eligibility determination process.
- 6102.5 Applicant's are required to update their applications annually in accordance with Section 6103 of this Chapter.

**6103 WAITING LISTS**

- 6103.1 DCHA maintains waiting lists for its public housing program and for its rent subsidy programs, which presently are the (Housing Choice Voucher Program

(Tenant Based and Project Based), Moderate Rehabilitation Program (Project Based), and Rental Supplement Program (Tenant, Project and Sponsor Based).

- 6103.2 DCHA shall place each applicant on the data base of all applicants. . The waiting list shall be maintained to ensure that applicants are referred to suitable unit types (for example, Mixed Population, General Population or Accessible) and sizes.
- 6103.3 The waiting list is organized by unit type (Mixed Population, Elderly Only and General Population), unit size, date and time of application and order of priority, consistent with Subsection 6111.6 of this Chapter.
- 6103.4 Applicants who meet the criteria for preferences under Section 6105 of this Chapter for public housing applicants or Chapters 76 or 95 for rent subsidy programs may have priority over applicants without preferences.
- 6103.5 Applicant families for public housing which include persons with disabilities who require specific accessibility features shall receive priority for those units designed with specific accessibility features. Families with disabled members who have identified the need for mobility accessibility will be referred to appropriate units as the appropriate size and type become available, or if not available at the time they reach the top of the waiting list, an appropriate sized unit on an accessible path will be modified as a reasonable accommodation for the family.
- 6103.6 The only other system for assigning priority to eligible applicants is date and time of application, unless otherwise specified in this Chapter including Sections 6111, 6112 and 6113 of this Chapter or Chapter 76 or 95 of this Title 14.
- 6103.7 DCHA may mail a waiting list update form to each applicant periodically.
- (a) Applicants who return a completed update form to the DCHA within thirty (30) days shall retain their place on the waiting list;
  - (b) If the applicant indicates that his/her circumstances have changed, the appropriate changes shall be made on the waiting list; and
  - (c) Applicants who do not return the completed update form within thirty (30) days shall be removed from the waiting list.
- 6103.8 Each applicant shall ensure that DCHA maintains his or her current mailing address at all times. Each change of address shall be reported in writing by the applicant.
- 6103.9 All applicants who update their applications shall be notified in writing of receipt of their updated information.

**6104 TEMPORARY CLOSURE OF THE WAITING LIST**

- 6104.1 If the number of families on the public housing or rent subsidy programs waiting lists is such that there is no reasonable prospect that additional applicants for specific units types or sizes can be housed within the next twelve (12) months, the Executive Director, may approve action to do the following:
- (a) Suspend the acceptance of further applications for certain unit types, unit sizes, or projects developed for special purposes; and
  - (b) Limit application acceptance to certain specified periods of the year.
- 6104.2 When action is taken to suspend, limit or reopen the acceptance of applications, DCHA shall make known to the public through publication of notice in the D.C. Register and in newspaper(s) of general circulation, minority media, and other suitable means the following:
- (a) The nature of the action; and
  - (b) The effective date of the action.
- 6104.3 Action to suspend, limit or reopen the acceptance of applications shall not take effect without at least ten (10) calendar days advance notice to the public in accordance with Subsection 6104.2.
- 6104.4 Notwithstanding the suspension of application acceptance, DCHA may continue to acceptance applications from priority applicants eligible for priority placement on the waiting lists pursuant to Subsection 6105.2 of this Chapter.

**6105 PREFERENCES**

- 6105.1 At the time of application, applicants self-certify their preference. Verification of a preference is not required until an applicant reaches the top of the waiting list. Applicants will be required to provide verification that they meet the preference as part of the eligibility determination process. Preferences for public housing are indicated in this Subsection. Preferences for the rent subsidy programs are contained in Chapters 76 and 95 of this Title.
- 6105.2 The granting of a preference does not guarantee admission to public housing or the rent subsidy programs. Preferences are used merely to establish the order of placement on the waiting list. Every applicant for public housing or the rent subsidy programs must also meet DCHA's Applicant Selection Criteria outlined in Section 6109 below.
- 6105.3 The following admission preference system will be applied in the selection of otherwise eligible applicants from the waiting list (based on the time and date of application) for a public housing unit offered in the following types of properties:

- (a) Mixed Population Properties for both Elderly and Adult Disabled Households:
  - (1) The 1<sup>st</sup> Preference is for Elderly Families and/or Disabled Families; and
  - (2) The 2<sup>nd</sup> Preference is for Near Elderly Families.
- (b) Elderly Only Properties:
  - (1) The 1<sup>st</sup> Preference is for Elderly Households, both able-bodied and disabled.
- (c) Special Needs Properties:
  - (1) The 1<sup>st</sup> Preference is for households that meet the Special Needs Requirements of the Identified Property or portion of Property.
- (d) General Population Properties:
  - (1) The 1<sup>st</sup> Category is Working Families (50% annually);
  - (2) The 2<sup>nd</sup> Category is all other families (40% annually).
- (e) UFAS or Reasonable Accommodation Units:
  - (1) The 1<sup>st</sup> Preference is for households with at least one member that requires the special features of the UFAs or Reasonable Accommodation Unit.
- (f) Emergency Applicants
  - (1) Up to 10% (not to exceed 100 units) annually of all applicants housed in the general and/or mixed-population properties, other than in UFAS or Reasonable Accommodation Units, will be selected from qualified applicants in the emergency category.
  - (2) If there are no applicants on the waiting list that qualify for the emergency category, otherwise eligible public housing applicants will be selected for admission.
  - (3) The Executive Director of DCHA, or his or her designee, shall determine which families qualify for emergency housing under Subsection 6105.2(b), taking into account severity of need, immediacy of need, the general public interest to be served, and the availability of units.

6105.4 No individual shall be considered a person with disabilities, for purposes of eligibility for public housing under this Title, solely on the basis of any current drug or alcohol dependence.

6105.5 The admission systems described above will work in combination with requirements to match the characteristics of applicant families to the type of units available, including units for targeted populations, *e.g.*, elderly, mobility impaired. The ability to provide public housing for qualified applicants will depend on the availability of appropriately sized public housing units.

6105.6 The preferences for admission to the rent subsidy programs are found at Chapter 76 and Chapter 95 of this Title 14.

## 6106 ELIGIBILITY

6106.1 DCHA shall consider an applicant eligible for selection for public housing or the rent subsidy programs if the applicant meets the following criteria:

- (a) Qualifies as a family, as defined in Section 6099 of this Chapter;
- (b) Annual income does not exceed the income limits for admission under Section 6108 of this Chapter;
- (c) Family meets applicant family selection criteria under Section 6109 of this Chapter;
- (d) Family size meets the occupancy standards established by DCHA under Section 6110 of this Chapter for public housing and Chapter 77 for the rent subsidy programs; and
- (e) Family provides all required information and signs all required documentation, including proof of citizenship or eligible immigrant status.

6106.2 As applicants near the top of the waiting list, the Client Placement Division will mail written notice to the last address provided in order to obtain information needed for a determination of eligibility. The letter will state:

- (a) The date and time of the eligibility interview;
- (b) The location where the eligibility interview will be held; and
- (c) The documents the applicant should bring to the eligibility interview.

6106.3 A family or applicant may make one request to reschedule an eligibility interview for the convenience of the applicant up to thirty (30) days after the scheduled eligibility interview date. However, DCHA will reschedule an eligibility interview as a reasonable accommodation if the applicant can demonstrate that a

disability prevented them from rescheduling within the prescribed time period.

6106.4 If the waiting list for the particular type of family applying is not lengthy, in the judgment of DCHA, an eligibility interview may be conducted at the time of the submission of application to DCHA.

6106.5 The eligibility interview will be held in order to collect eligibility data, determine eligibility and identify any special problems or needs. As part of the eligibility determination, an applicant will be provided the opportunity to complete a reasonable accommodation request. All information shall be verified as a part of the eligibility determination.

6106.6 During the eligibility interview, the Client Placement Division shall assist the applicant in completing any forms necessary. The following forms are to be completed or signed by the applicant:

- (a) Privacy Act Notice;
- (b) Asset Certification Form;
- (c) Verification of Date of Birth for each Household Member;
- (d) Social Security Number Certifications:
  - (1) Social Security Numbers for each Household Member 6 year old or older; or
  - (2) Certification of inability to meet the documentation requirement where an applicant has a Social Security Number but no documentation; or
  - (3) Certification that Social Security Numbers have not been issued.
- (e) Picture ID for family members age eighteen (18) or older;
- (f) Declaration of Section 214 Status (Non-citizen Rule);
- (g) Verification of Preference or Admission Category;
- (h) Verification of Full-time Student Status Form;
- (i) Certification of Disability Form;
- (j) Statement of Child Care Expense Form;
- (k) Zero Income Statement;

- (l) Verification of Income from Assets;
- (m) Statement of Child Support;
- (n) Income Verification (Employment, Public Assistance, Social Security);  
and
- (o) Other Forms as may be required.

6106.7 At the end of the eligibility interview, the Client Placement Division shall provide the applicant with written notification of any missing or incomplete forms, information on how to determine if any debt remains unpaid to DCHA or any landlord participating in the DCHA rent subsidy programs, or any additional information which is to be provided by the applicant.

6106.8 If an applicant cannot complete all the necessary forms at the time of the interview, the interviewer may request that any additional required forms be completed by the applicant within a specified timeframe not to exceed ten (10) days.

6106.9 A written receipt shall be provided to the applicant for any additional information provided.

6106.10 Applicants who do not provide the additional items requested by DCHA pursuant to Subsection 6106.8 within ten (10) days, may request one (1) extension of time not to exceed ten (10) days.

6106.11 Applicants who do not provide additional items requested by DCHA pursuant to Subsection 6106.8 within ten (10) days, or within any additional period allowed under Subsection 6106.9, shall be removed from the waiting list.

6106.12 If an applicant experiences difficulty in securing verification in the prescribed form, DCHA may accept other documents to expedite the certification process (for example, baptismal or school records could be used as proof of birth).

## **6107 ELIGIBILITY DETERMINATION**

6107.1 After reviewing the application, additional supporting documents and obtaining necessary verifications, DCHA shall determine the applicant's eligibility in accordance with Section 6104 of this Chapter.

6107.2 Applicants determined to be eligible for housing shall be placed in the selection pool.

6107.3 DCHA must mail a letter to each applicant determined to be ineligible and the notification of ineligibility shall contain:

- (a) The date and time of the informal conference;
- (b) The location where the informal conference will be held;
- (c) The reason for the determination of ineligibility;
- (d) The applicant's right to bring new or additional information to the informal conference;
- (e) The type of additional documentation or information DCHA may need in order to reconsider an applicant's eligibility for the public housing and rent subsidy programs; and
- (f) The applicant's right to bring an attorney or any other representative to the informal conference.

6107.4 The informal conference shall be scheduled and/or rescheduled as follows:

- (a) The date of the informal conference shall be no sooner than fifteen (15) days and no later than thirty (30) days after the postmark date of DCHA's letter to the applicant.
- (b) A family or applicant may request to reschedule an informal conference for the convenience of the applicant any time up to two (2) days after the scheduled informal conference date. If a family or applicant fails to attend the conference rescheduled for their convenience they may make one final request for rescheduling any time up to two (2) days after the rescheduled informal conference date.
- (c) Notwithstanding Subparagraph (b) above, DCHA will reschedule an informal conference as a reasonable accommodation if the applicant can demonstrate that a disability prevented them from rescheduling within the prescribed time period.

6107.5 If the applicant does not attend the informal conference, a supervisor in the Client Placement Division will conduct a review of the application to determine if the applicant is eligible for public housing. This supervisory review will take place even where no additional information is provided by the applicant or the applicant's representative.

6107.6 Applicants determined to be eligible after the supervisory review or the informal conference will be notified in writing and placed in the selection pool.

6107.7 When an applicant is determined ineligible after the informal conference or supervisory review, the Client Placement Division will issue a letter informing the applicant of their right to:

(a) A review by an independent third party acceptable to DCHA willing to review applicant files *pro bono*; and

(b) Bring a grievance pursuant to Chapter 63 or Chapter 89 of this Title 14.

6107.8 When an applicant is determined ineligible for public housing or a rent subsidy program, the applicant will be removed from the waiting list and his or her application will be retained up to three years in an inactive status.

6107.9 Applicants who were determined ineligible solely by reason of an unpaid debt may, at any time during their inactive status, provide evidence that the debt has been paid or otherwise resolved. These applicants may be returned to the waiting list with the same date and time of application as the date and time the applicant had when placed on inactive status.

6107.10 Applicants with mobility impairments who failed to provide documentation or otherwise complete the eligibility process and were placed on inactive status, may at any time complete the process and be returned to the waiting list with the same date and time of application as the date and time the applicant had when placed on inactive status.

#### **6108 INCOME LIMITS**

6108.1 To be eligible for admission to public housing or a rent subsidy program an applicant's annual income shall be within the limits of lower income families established by HUD, based on the family size.

6108.2 Income limits for lower income families and very low income families shall be as established and revised periodically by HUD. HUD establishes low income limits based on eighty percent (80%) of the area median income, very low income limits based on fifty percent (50%) of the area median income, and extremely low income limits based on thirty percent (30%) of the area median income.

6108.3 Income limits for public housing shall be applied upon admission.

6108.4 Based on HUD regulations, DCHA shall ensure that actual admission of eligible lower income families from the waiting list is as follows: at least forty percent (40%) shall be families with extremely low incomes at the time of commencement of occupancy.

#### **6109 APPLICANT FAMILY SELECTION CRITERIA**

6109.1 Information that will be considered in screening an applicant shall be reasonably related to assessing the applicant and other applicant family members listed on the application. The applicant's history (e.g., employment history, personal habits or

practices, and/or rental or personal credit history) must demonstrate the capacity to comply with the terms of the DCHA lease. If the applicant requires support (e.g., live-in aide) to enable him/her to meet the standards identified below, the applicant must demonstrate that the necessary support would be available at the time of admission. Additionally, the applicant, including the applicant's family must be willing to:

- (a) Not interfere with other residents in such a manner as to diminish their peaceful enjoyment of the premises by adversely affecting the health, safety, or welfare of the other residents or the community;
- (b) Enhance and/or maintain the physical environment or financial stability of the project;
- (c) Help create an environment where young people, especially children, can live, learn, and develop into productive and responsible citizens;
- (d) Attend and complete DCHA's Community Living Training Program, prior to admission to public housing;
- (e) For public housing applicants, comply with the terms and conditions of the DCHA lease; and
- (f) Evidence the ability to comply with the Family Obligations set forth in Chapter 79 for the rent subsidy programs.

6109.2 DCHA will utilize the following methods in determining an applicant's eligibility for admission: reference checks, including current and/or previous landlords, consultations with current and/or former neighbors, conducting home visits, reviewing police reports and/or criminal background checks of each member of the applicant family, including juveniles, as may be permitted by law.

6109.3 Relevant information respecting personal habits or practices to be considered in the admission process, may include, but is not limited to, the following:

- (a) An applicant's past performance in meeting financial obligations, especially rental payment obligations. (An applicant who is responsible for any debt to DCHA, any other housing authority, or any landlord participant in any federally assisted housing program (e.g., the Housing Choice Voucher Program or Moderate Rehabilitation Program) may not be admitted or readmitted until the debt is paid or otherwise satisfied; and
- (b) A record of respecting the rights of others, as defined in the DCHA lease; and
- (c) The conviction of any applicant family member for a crime involving

physical violence against persons or property or other criminal convictions that may adversely affect the health, safety, or welfare of other DCHA residents, staff, or other members of the community, e.g., distribution or manufacture of illegal drugs or controlled substances, possession of an unlicensed firearm and/or ammunition, or child molestation; and

- (d) A determination that the applicant has committed fraud in connection with any Federal housing assistance program or any local housing assistance program; and
- (e) An applicant's misrepresentation of any information related to eligibility, including, but not limited to, the award of a preference for admission, family composition, or income.

6109.4

If an applicant is determined eligible and qualified for admission, the applicant will be referred to a public housing property for housing, consistent with Section 6111 of this Title, or to the Rent Subsidy Programs for issuance of a voucher after attendance at a briefing. Notwithstanding, prior to the applicant signing a DCHA lease, or receiving a voucher, if the property manager, program specialist or other DCHA employee uncovers information regarding the applicant that would lead a reasonable person to believe that housing the applicant would interfere with the other residents' peaceful enjoyment of the premises by adversely affecting the health, safety, or welfare of the other residents or the community, the DCHA manager, specialist or other employee, shall so advise the Client Placement Division and refer the application for further consideration. The Client Placement Division will then conduct a further review of the application, taking into consideration the information provided.

6109.5

If unfavorable information is received as a result of the investigation conducted pursuant to Subsections 6109.2 or 6109.4 above, consideration shall be given to the time, nature, and extent of the applicant family's conduct, and to factors which might indicate a reasonable probability of favorable future conduct or financial prospects. Mitigating circumstances might include, but are not limited to:

- (a) Evidence of favorable changes in the applicant's pattern of behavior, including the length of time since an offense or behavior was committed;
- (b) Evidence of successful rehabilitation, e.g., evidence that the responsible member of the applicant family is not likely to repeat the prior criminal behavior, evidence that neither the applicant nor any member of the applicant family is likely to cause harm to the other public housing or rent subsidy program residents, DCHA staff, or other members of the community;
- (c) Evidence of the applicant's participation in or willingness to participate in relevant social service activities or other appropriate counseling services;

or

- (d) Evidence of the applicant's modification of previous disqualifying behavior, with indications of continuing support intended to assist the applicant in modifying the disqualifying behaviors.

6109.6

With respect to criminal conviction(s) or activity:

- (a) The DCHA may deny admission to public housing or the rent subsidy programs to any applicant:
  - (1) If any adult member of the applicant's family (or any non-adult member who has been convicted of a crime as an adult) has been convicted of a felony, or a misdemeanor involving destruction of property or acts of violence against another person; or
  - (2) If the applicant or a member of the applicant's family has participated in violent criminal behavior within the last five years for which he/she has not been convicted. This violent criminal behavior must be documented by an arrest record, parole violation report, law enforcement criminal history report, or other official law enforcement record.
- (b) DCHA shall deny admission to any applicant who has been evicted from housing assisted under the United States Housing Act, for drug-related criminal activity for a three year period beginning from the date of the eviction.
- (c) In determining whether an applicant, as identified in Subparagraphs (a) and/or (b) will be admitted into public housing or the rent subsidy programs, DCHA shall make an assessment of the applicant's (or the relevant member of the applicant's family) behavior to determine whether he/she currently demonstrates that he/she has been rehabilitated. Factors that DCHA may consider include, but are not limited to, the following: acknowledgment of culpability; adequate and suitable employment or participation in a generally recognized training program; substance abuse treatment, if necessary; successful completion of therapy directed at correcting the behavior that lead to the criminal activity; and existence of a support network or support systems.
- (d) In collecting relevant information necessary to make the assessment described in Subparagraph (c) above, DCHA shall, at its sole discretion, determine the extent and depth of the verification for each applicant. Information may be requested from various sources, including, but not limited to, the applicant (by interview and/or home visit), landlords, clergy, employers, family members, social workers, parole officers, court

records, drug treatment counselors, neighbors, and/or police department records.

- (e) DCHA shall prohibit admission of any family that includes any individual who is subject to a lifetime registration requirement under any sex offender registration program (e.g., state, local or international). DCHA shall, upon request, provide the tenant or applicant with a copy of the registration information and an opportunity to dispute the accuracy and relevance of that information.
- (f) DCHA shall prohibit admission for any individual that has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine or production of methamphetamine on the premises of federally assisted housing.

6109.7 Care and consideration shall be used in soliciting personal information concerning the applicant and his/her family members, and appropriate authorizations shall be obtained for the release of information, as necessary, from each applicant family. Any information received regarding an individual applicant will be used solely for the purpose of determining eligibility and will not be released for any other use, unless such release is required by law. Failure to sign the required release forms or the failure to submit information determined necessary to establish eligibility, shall result in the applicant's removal from the waiting list. If the applicant is removed from the waiting list because of such a failure, the informal conference procedures set forth in Section 6107 shall not apply.

6109.8 The DCHA Applicant Family Selection Criteria will not be used to determine eligibility of residents for continuing occupancy in the same public housing unit. Eligibility for continuing occupancy in the same unit will be made in accordance with the terms and conditions of the DCHA lease.

6109.9 Resident requests for transfers will be subject to this Section -- Applicant Family Selection Criteria-- and shall be a requirement for transfer of residents and the execution of new leases. This Section will not be applicable to DCHA initiated transfers or approved emergency medical transfers.

6109.10 Requests to be added as a Family Member, Live-in Aide, or to be made Head of Household upon the demise or other departure of the Head of Household are subject to the review and approval under the selection criteria in this Section. Review of applicants to be made Head of Household include consideration of the recommendation of the Property Manager, as well as any debt, payment history or housekeeping issues of the public housing household.

## 6110 OCCUPANCY STANDARDS

6110.1 Standards for admission and continued occupancy shall be established to avoid

overcrowding and wasted space, and each public housing dwelling unit shall be leased in accordance with the standards of this Subtitle and Subtitle A of this Title.

6110.2 Tenants shall be assigned to public housing dwelling units which consist of the number of rooms necessary to provide decent, safe and sanitary accommodations without overcrowding or wasting space. The following standards for unit size at admission, and for continued occupancy, shall apply:

Unit Size (Number of Bedrooms)	Minimum Number of Persons in Unit	Maximum Number of Persons in Unit
0	1	1
1	1	2
2	2	4
3	4	6
4	6	8
5	8	10
6	10	12

6110.3 Public housing dwelling units shall be assigned in a manner that will eliminate the need for persons of the opposite sex, other than husband and wife, to occupy the same bedroom.

6110.4 Every member of the family, regardless of age, shall be considered a person when applying the standards for admission and continued occupancy. In accordance with Chapter 74, DCHA will consider unit assignment to a larger size to provide a separate bedroom for a disabled person, if verified as medically necessary.

6110.5 Each public housing dwelling unit shall be used solely as a residence for the tenant and the tenant's family as represented in the application for housing, and the dwelling lease.

6110.6 When possible, occupancy shall be restricted at admission to minimum requirements to allow for family growth.

6110.7 Application of occupancy requirements for continued occupancy shall be consistent with Subsection 6114.7 and Subsection 6205.2 of this Chapter.

**6111 TENANT ASSIGNMENT**

6111.1 When a public housing applicant reaches the top of the waiting list, DCHA shall review the applicant's file to determine whether the information is current and

correct. Information shall be considered current if it was submitted and verified by DCHA within no more than one hundred twenty (120) days prior to tenant assignment.

- 6111.2 If updated information is required, the applicant shall be required to submit information in accordance with Section 6106 of this Chapter.
- 6111.3 Eligible applicants shall be offered an appropriate public housing dwelling unit, when available, consistent with the priorities and requirements of this Title.
- 6111.4 Each public housing applicant shall be referred to an appropriate unit, on a community-wide basis, based upon the date and time of application, suitable type or size or unit, preference, consistent with the objectives of Title VI of the Civil Rights Act of 1964, and applicable HUD regulations and requirements.
- 6111.5 Suitable public housing unit vacancies arising at a given time at any location shall be offered to two selected applicants in the selection pool based on date and time of application at the time of vacancy; provided that referrals may be made out of sequence in the following situations:
- (a) For applicants with a preference or in the emergency category, assignments shall be made to units in sequence based upon the date and time of application, as indicated in Section 6105;
  - (b) For low income families, as indicated in Subsection 6105;
  - (c) For disabled families as indicated in Section 6112; and
  - (d) For comprehensive modernization properties and new developments as indicated in Section 6113.
- 6111.6 Public Housing applicants shall be offered vacancies pursuant to Subsections 6111.6 through 6111.13.
- 6111.7 If a suitable vacant unit exists in more than one (1) location, the public housing applicant may be offered the unit at the location that contains the largest number of vacancies.
- 6111.8 If the public housing applicant rejects the first vacancy offered, the applicant shall be offered a suitable unit when next available.
- 6111.9 If the applicant rejects two (2) offers, he or she shall be removed from the waiting list. Offers shall be made in sequence, and there shall have been a rejection of a prior offer before a public housing applicant may be offered a second location.
- 6111.10 If the applicant is willing to accept the unit offered but is unable to move at the

time of the offer, and presents clear evidence to DCHA's satisfaction of his or her inability to move, refusal of the offer shall not count as one of the number of allowable refusals permitted the applicant before removing the applicant from the public housing waiting list.

6111.11 If the public housing applicant presents evidence to the satisfaction of DCHA that acceptance of a given offer of a suitable vacancy may result in undue hardship not related to considerations of race, sex, color, or national origin, such as inaccessibility to employment, children's day care, refusal of such an offer shall not be counted as one of the number of allowable refusals permitted an applicant before removing the applicant from the waiting list.

6111.12 If a non-disabled family refuses to accept a vacancy in an accessible unit, the refusal shall not be counted as one of the allowable refusals.

6111.13 The following timing requirements shall be applicable to any offered vacancies:

- (a) The offer of a unit to a public housing applicant shall be in writing, and the applicant shall contact DCHA within five (5) working days of the date of the written notification to schedule an appointment to inspect the unit offered;
- (b) The appointment to inspect the unit shall be schedule within three (3) working days of the date the applicant contacts DCHA;
- (c) After the applicant has inspected the unit offered, the applicant shall, within twenty-four (24) hours, notify DCHA of acceptance or refusal of the unit offered; and
- (d) If the applicant fails to meet any of these timing requirements, DCHA shall consider the failure as a rejection of the unit offered, and DCHA may offer the vacancy to the next applicant in order of priority.

6111.14 Public housing applicants with preferences who decline a unit for reasons other than those allowed in Subsections 6111.10, 6111.11 or 6111.12 shall lose their preference provided in Subsection 6105.2, and shall be placed on the regular waiting list in accordance with their date and time of application.

**6112 TENANT SELECTION AND ASSIGNMENT: FAMILIES WITH DISABILITIES**

6112.1 In the selection of families to occupy units with special accessibility features for persons with disabilities, DCHA will first offer such units to families on its transfer list that include persons with disabilities who require such accessibility features over new admissions. If vacancies cannot be filled with families on the transfer list, then eligible families with disabilities on the waiting list will be offered the unit.

6112.2 If units with special accessibility features are vacant for a period of more than thirty (30) days, and there are no families with disabilities requesting the reasonable accommodation on the transfer or waiting lists, DCHA may offer the unit to an applicant who does not need the features available in the unit consistent with Section 6111 of this Chapter.

6112.3 Applicant families who do not need the accessibility features available in an offered unit, pursuant to Subsection 6112.2 and the provisions of their lease, shall be transferred to another unit if a family in need of the accessibility features of said unit is identified.

**6113 TENANT SELECTION AND ASSIGNMENT: COMPREHENSIVE MODERNIZATION PROPERTIES AND NEW DEVELOPMENTS**

6113.1 Tenants and applicants shall be required to meet the following additional criteria prior to being assigned to a comprehensive modernization or newly developed housing property:

- (a) Attend a mandatory training program (if available and offered);
- (b) Be current in rent and other charges (for current DCHA tenants);
- (c) Not be in violation of the dwelling lease (for current DCHA tenants); and
- (d) Meet the criteria set forth in Section 6105 of this Chapter.

6113.2 As renovated units become available for initial occupancy at comprehensive modernization properties, vacancies shall be filled (by tenants or applicants meeting the criteria of Subsection 6113.1) based on the following priorities:

- (a) First preference to former property residents who were relocated to another DCHA dwelling unit or relocated with a Housing Choice Voucher;
- (b) Second preference to DCHA tenants in other properties who have been identified as inappropriately housed;
- (c) Third preference to other tenants who have requested a transfer; and
- (d) Fourth preference to applicants from the DCHA waiting list.

6113.3 Consistent with the priorities listed in Subsection 6113.2, tenants or applicants shall be assigned to available units in accordance with Subsection 6111.5 of this Chapter.

6113.4 As units become available for initial occupancy at newly developed housing, the

priorities in Subsection 6113.2 shall be applied, except that Subsection 6113.2(a) shall not be applicable.

**6114 MOVE-IN REQUIREMENTS**

6114.1 Applicants from the public housing waiting list who accept a unit shall pay one (1) month's tenant rent and a security deposit prior to signing the dwelling lease. All rent and security deposits shall be paid by check or money order only.

6114.2 DCHA shall determine if the applicant's application is current, shall schedule an appointment with the applicant, and at the appointment shall do the following:

- (a) Review and complete all required certifications of eligibility and the dwelling lease; and
- (b) Obtain the applicant's signature on all required documents.

6114.3 The tenant shall attend any training required by DCHA.

6114.4 DCHA shall schedule a move-in date for the new tenant upon execution of the documents described in Subsection 6114.2 and shall provide the new tenant with copies. DCHA shall also conduct a move-in inspection in accordance with Section 6505 of this Subtitle.

**6115 TENANT ADMISSIONS AND OCCUPANCY: REDEVELOPED AND SPECIAL NEEDS PROPERTIES**

6115.1 Redeveloped Properties are mixed-finance, mixed-income communities owned by private entities which communities are created through HOPE VI or other public funding combined with extensive private funding and which have some or all of their units assisted with public housing operating funds. Special Needs Properties are DCHA-owned or privately-owned units assisted with public housing operating funds and managed by service providers for residents with special needs for supportive services.

6115.2 Redeveloped Properties and Special Needs Properties because of the unique nature of their substantial private funding and private ownership and/or management have admissions and occupancy rules that are tailored to the particular property, type of occupancy and need to coordinate with other supportive services programs in many cases. This regulation sets forth the regulatory framework for the property-based rules and ongoing DCHA oversight or approvals governing occupancy and re-occupancy selection criteria, application processing, waiting lists, lease provisions, income determinations, and grievance procedures. DCHA pursuant to the Moving To Work Agreement, herein referred to as the "MTW Agreement," entered into between the US Department of Housing and Urban Development dated July 25, 2003, provides that DCHA may,

notwithstanding otherwise applicable federal statutes or regulations issued pursuant to the Housing Act of 1937, adopt local rules for the governance of its Low Rent (public housing) and Housing Choice Voucher Programs. Thus, notwithstanding any other local or federal rule that might otherwise be applicable, the provisions of Section 6115 apply to Redeveloped Properties and Special Needs Properties designated by the Board of Commissioners. All other provisions of local rules and applicable federal rules regarding occupancy and admissions to public housing shall apply.

6115.3 Occupancy and re-occupancy selection criteria, including priorities and preferences, for applicants at Redeveloped and Special Needs Properties are those prepared uniquely for that property as developed by representatives of DCHA, the community, the private developer, owner, or manager, and representatives of current residents, prospective residents or former residents:

- (a) While the occupancy and re-occupancy selection criteria vary by property, selection and screening criteria for all properties shall include the mandatory federal standards with respect to certain types of criminal activity as specified in federal statutes.
- (b) The occupancy and re-occupancy selection criteria shall be available at the management office serving the property, as well as from DCHA's Client Placement Division.

6115.4 Each property shall develop its own process for taking applications, subject to review and approval by DCHA.

- (a) Application forms for returning residents and applicants are developed by the owner for the redeveloped property and shall be subject to review and approval by DCHA.
- (b) Completed applications for returning residents, transferring residents or applicants shall be accepted at the property and shall be reviewed and approved in accordance with the criteria approved in accordance with Subsection 6115.2.
- (c) The occupancy and re-occupancy application and selection process shall be monitored by DCHA's Client Placement Division.

6115.5 Where the number of returning residents, transferring residents or new applicants exceeds the number of available units, applicants seeking to be housed at the property shall be placed on a waiting list.

- (a) Waiting lists shall be maintained by the manager of the property based on the date and time of application and in accordance with the selection criteria developed for the property and approved by DCHA in accordance

with Subsection 6115.2.

- (b) At certain properties, a basic eligibility determination for public housing shall be made by DCHA's Client Placement Division and eligible tenants shall be referred to the property where the property's selection criteria shall be applied.
- (c) A list of all properties, along with the status of each site based waiting list as either open or closed, shall be available from the DCHA's Client Placement Division. When a property makes a determination to open its waiting list, notice shall be provided to the DCHA resident advisory board and published in the District of Columbia Register.

6115.6 Leases for redeveloped properties may be developed by the owner in cooperation with DCHA and representatives of the former residents and shall be subject to approval by DCHA for compliance with applicable DCHA and federal statutes. Provisions relating to rent, rent collection, security deposits and excess utility charges may vary from the DCHA standard lease.

6115.7 Certification and recertification of income shall be performed by the manager of the property and monitored periodically by DCHA for compliance with applicable DCHA and federal regulations. At certain Special Needs Properties designated by DCHA, income for certification and recertification purposes may be disregarded for up to two years of occupancy.

**6116 TENANT SELECTION AND ASSIGNMENT: ELDERLY-ONLY DESIGNATIONS**

6116.1 In accordance with the authority granted to the Authority under the Moving to Work Agreement between HUD and DCHA, dated July 2003, as more specifically set forth beginning with the Creative Living Solution Plan for Fiscal Year 2004, the Authority shall designate certain properties as elderly-only from time to time as follows:

- (a) The designation of properties as elderly-only shall allow DCHA to provide additional opportunities for seniors to live with the neighborly support systems, reduction of potential intergenerational conflicts that often arise in mixed population properties, and the greater security that comes with a limited access building.
- (b) In order to more effectively meet the needs of elderly families, both disabled and non-disabled, DCHA shall from time to time by resolution of the Board of Commissioners, designate as elderly-only, certain existing public housing properties or new construction or newly acquired properties that are owned or financially assisted by DCHA. Such designations shall continue from year to year indefinitely from the date of

designation and continuing beyond the term of the Moving to Work agreement unless otherwise rescinded or modified by the Commission.

- (c) For Mixed Population properties being considered for designation as elderly only, notice of the proposed designation shall be published in the DC Register, a public hearing at each such property shall be held at least 30 days prior to action by the Board of Commissioners, and the Commissioners shall take into consideration comments from each hearing as well as comments and testimony at the public meeting of the Commission.
- (d) No disabled residents of the properties designated as elderly-only shall be required to move. Any units becoming vacant in the designated elderly-only properties shall be leased to elderly families and the properties shall gradually transition to elderly-only buildings.
- (e) DCHA may, when feasible in cooperation with the owner of a redeveloped property, provide for a site-based application preference for existing elderly residents in Mixed Population properties requesting a transfer to a newly constructed or acquired elderly-only property.
- (f) Disabled residents continuing to reside in an elderly-only building after a designation converting such building from Mixed Population status may, at any time, request, on a priority basis, a transfer to a vacant unit of an appropriate size at any other public housing property or for a housing choice voucher as may be available. Such residents who are mobility impaired shall have a priority for existing units being converted to federal accessibility standards, as well as newly constructed or acquired public housing units that meet those standards. Fully accessible units shall be available in many properties in all areas of the District.

#### **6117      ADDING INDIVIDUALS TO THE LEASE**

6117.1      Any person using or occupying the Leased Premises not in compliance with this Section is an unauthorized occupant without tenancy or other rights under the Dwelling Lease, including any person using or occupying the Leased Premises without approval from DCHA.

6117.2      A family shall notify in writing to DCHA of any additions to their household composition in cases of birth, legal adoption, court ordered guardianship or court awarded conservatorship and submit supporting documentation requested from DCHA within thirty (30) days of the addition to the household composition; and

- (a) DCHA may require the family to transfer to an appropriately sized unit that will not result in overcrowding or occupancy in excess of the standards specified in Chapter 61 of this Title, and;

- (b) Any addition of an adult is a proposed addition until DCHA has notified the Lessee that the adult has been added as a household member. The Authority will screen the proposed adult addition in accordance with federal law and regulations as well as DCHA's admissions and occupancy policies and regulations. Within thirty (30) days of notification of the proposed addition, Lessee will be notified of the disposition of the proposed addition.

6117.3 Other than those persons listed in Subsection 6117.2, no additional persons, adults or minors, may be added to the household composition as household members unless:

- (a) The Lessee submitted a written request to add additional persons to the household and the request was approved by DCHA;
- (b) The proposed additional household member shall be subject to DCHA approval criteria and must meet all applicable eligibility and screening requirements, and
- (c) The requested addition to the household shall not cause the Leased Premises to exceed the maximum occupancy in accordance with the Authority's policies and regulations.

6117.4 DCHA may permit Lessees to add minor children, other than those listed in Subsection 6117.2, with a care giving relationship, provided:

- (a) The adding of an additional household member is in accordance with Subsection 6117.3.
- (b) Appropriate documentation acceptable to DCHA of a care giving relationship is provided prior to the minor children moving into the unit. Documentation shall be sufficient to establish the care giving relationship and may include: notarized authorization from the child's legal guardian, school or medical records, public benefit records, and sworn statements from medical, legal, social service professionals, teachers or clergy.
- (c) Notwithstanding the provisions of Subsection 6117.2, if additional occupants would result in occupancy in excess of the standards specified in Section 6110 of this Title, DCHA may review a reasonable request to approve the addition of minor children to the Dwelling Lease taking into account certain factors including but not limited to:
  - (1) The number of additional occupants;
  - (2) The size of the unit;

- (3) The age of the household members;
- (4) The expected duration of the care giving relationship;
- (5) The needs of the housing development; and
- (6) The capacity of DCHA.

**6118****RECERTIFICATION****6118.1**

The Lessee shall be responsible for providing to DCHA a completed application for continued occupancy, including the appropriate verification forms. The Lessee's responsibility to provide a completed application for continued occupancy, including the appropriate verification forms shall include but is not limited to the following:

- (a) Lessees shall be required to return the recertification package including any required substantiating documentation or verification forms to DCHA within thirty (30) days of receipt of the recertification package.
- (b) Lessee shall obtain from other household members any information, documentation and signatures, as DCHA may require, when submitting a completed application for continued occupancy, including the appropriate verification forms as DCHA may require.
- (c) The Lessee shall provide, for each household member, to DCHA a listing of the exact amount of income or benefits, from whatever source and the exact source of the income or benefit, and;
- (d) The Lessee shall provide, certification from all adult household members that their income has been accurately reported, and;
- (e) Lessee shall provide the full name, gender, Social Security Number and date of birth for each household member, and;
- (f) Lessee shall provide to DCHA proof of the Lessee's and/or any household member's enrollment in an educational facility and shall provide this information for any household member that Lessee is seeking to add, and;
- (g) Lessee's who wish to remove a household member from the household shall have the burden of proof that such person has permanently vacated the Leased Premises and must submit documents satisfactory to DCHA, in its sole discretion, that the household member is residing elsewhere.

- (h) If the Lessee has misrepresented or failed to submit timely to DCHA any facts used in the determination of rent, whether intentionally or by mistake, DCHA may charge and collect as rent the difference between the rent actually paid and the rent which would have been due had the proper information been submitted timely by the Lessee. This amount shall be posted to the Lessee's account and shall be due thirty (30) days from the date of the rent statement. The rent amount reflected on the Lessee's rent statement shall constitute sufficient proof of notice to Lessee. A failure to accurately report income, deductions, family composition, or any other information may result in legal action being taken by DCHA or law enforcement agencies.

**6119****REPORTING CHANGE OF INCOME AND INTERIM  
RECERTIFICATION****6119.1**

It shall be the Lessee's responsibility to report to DCHA complete and accurate information of all members of the family, including any change in family circumstances, within thirty (30) days of the change. Changes in family circumstances include but are not limited to changes in: family size, such as additions or removals of household members, and income. The Lessee's responsibility to report any change in family circumstances, includes but is not limited to the following:

- (a) Documentary proof of the reported change satisfactory to DCHA, in its sole discretion, and;
- (b) Lessee shall provide to DCHA proof educational enrollment in an educational facility of any household member that Lessee is seeking to add pursuant to Chapter 61 of this title, and;
- (c) Lessee shall obtain all supplemental information and required signatures as DCHA may require, from other household members, and;
- (d) Lessee's who wish to remove a household member from the household shall have the burden of proof that such person has permanently vacated the Leased Premises and must submit documents satisfactory to DCHA, in its sole discretion, that the household member is residing elsewhere, and;
- (e) Any household member who begins employment or begins to receive any benefits or other source of income, and;
- (f) DCHA shall have the right to require the Lessee to attend a rent review meeting upon written request. Lessee may request a rent review through the manager of his property at any time upon written request. Lessee shall attend any meetings held to conduct the rent review at the time and place specified by DCHA or, if requested by the Lessee, at an alternative time

during normal DCHA hours. Lessee shall provide to DCHA complete and accurate information, including documentation, as specified by DCHA.

- (g) If the Lessee has failed to comply with this subsection, including but not limited to misrepresentation or failure to submit timely to DCHA any facts used in the determination of rent, whether intentionally or by mistake, DCHA may charge and collect as rent the difference between the rent actually paid and the rent which would have been due had the proper information been submitted timely by the Lessee. This amount shall be posted to the Lessee's account and shall be due thirty (30) days from the date of the rent statement. The rent amount reflected on the Lessee's rent statement shall constitute sufficient proof of notice to Lessee. A failure to accurately report income, deductions, family composition, or any other information may result in legal action being taken by DCHA or law enforcement agencies.

## **6120 RETROACTIVE RENT CHARGES**

- 6120.1 When the tenant has misrepresented the facts upon which the tenant rent is based, or has failed to furnish timely required income verifications to DCHA without good cause approved by DCHA, to the extent that the amount of tenant rent charged is less than it should have been, DCHA shall assess the tenant a retroactive rent charge.
- 6120.2 The amount of the retroactive charge shall be the additional amount of tenant rent the tenant would have been charged if there had not been misrepresentation, or failure to furnish income verification, by the tenant.
- 6120.3 If it is found at the time of recertification that the tenant failed to report changes in annual income as they occurred, and the changes would have required a higher tenant rent, the increased rent shall be made retroactive to the date the rent would have increased had the tenant made the report.

## **6121 LIVE-IN AIDES**

- 6121.1 It is the policy of DCHA to grant reasonable accommodations, such as a live-in aide, subject to compliance with the provisions set forth in Chapter 74 of Subtitle G of these regulations.
- 6121.2 Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:
- (a) Is determined to be essential to the care and well-being of the person(s);
  - (b) Is not otherwise legally or financially obligated for the support of the person(s); and

(c) Would not be living in the unit except to provide the necessary supportive services.

6121.3 A live-in aide is subject to approval of DCHA prior to occupancy. At any time, DCHA may refuse to approve a particular person as a live-in aide, or may withdraw such approval. A live-in aide resides in a unit identified on a lease, but is not a lessee with rights of tenancy, or possesses rights to participate in resident council.

6121.4 A live-in aide must abide by all the rules and regulations of DCHA as well as those of the particular property where they reside. DCHA will provide a thirty (30) day written notice to a resident of a determination to withdraw approval of a live-in aide. This decision by DCHA is subject to the Grievance Process available to Lessees.

6121.5 The income of an approved live-in aide shall not be included in the calculation of rent, and the name of an approved live-in aide shall not be added as a Lessee to the Dwelling Lease, but shall be added as a live-in aide prior to taking up occupancy of a unit, otherwise such person is deemed to be an unauthorized occupant.

## **6122 REASONABLE ACCOMMODATION NOTIFICATION**

6122.1 It is the policy of DCHA to grant reasonable accommodations pursuant to Chapter 74 of this Title. As provided in Chapter 74, DCHA will provide notice of the availability of reasonable accommodations for applicants, residents, and participating families. Reasonable accommodations can be requested by applicants, residents and participating families at any stage of the public or assisted housing application process or during occupancy.

6122.2 All applicant requests for reasonable accommodations shall be filed with the Client Placement Division and reviewed by the Program Manager or designee. The policies and procedures to request reasonable accommodations for applicants, residents, and participating families are applied pursuant to Chapter 74 of this Title.

## **62123 GRIEVANCE PROCEDURES**

6123.1 Any applicant seeking admission to public housing operated by DCHA who believes that he or she has been aggrieved, or adversely affected by an act or failure to act by a DCHA employee or official, may file, with the DCHA, a complaint requesting an administrative determination of his or her rights as provided for in 14 DCMR Chapter 63. Applicants seeking admission to the rent subsidy programs may file a complaint as provided in 14 DCMR Chapter 89.

**CHAPTER 77            RENT SUBSIDY PROGRAMS:    HOUSEHOLD COMPOSITION  
AND OCCUPANCY STANDARDS**

## Secs.

7700	Introduction
7701	Determining the Eligible Subsidy
7702	Unit Size Selection
7703	Household Size Determinations
7704	Absence Due to Medical Reasons
7705	Termination for Absence of Entire Family
7706	Reporting Changes in Household Composition and Visitors

**7700            INTRODUCTION**

7700.1            Rent subsidies under all of the rental subsidy programs administered by DCHA are based on the number, age and gender of the members of the household occupying the rental unit as specified in Chapter 78 hereof. The maximum amount of the actual payment by DCHA, the payment standard as set forth in Chapter 83 hereof, varies depending on the size of the unit for which assistance is provided. This Chapter addresses how the size of unit is determined for applicants and participants, often referred to as occupancy standards.

**7701            DETERMINING THE ELIGIBLE SUBSIDY**

7701.1            The following are general governing provisions and definitions:

- (a)            All standards in this Chapter relate to how the number of bedrooms are used to determine the maximum size of the rental subsidy, not the family's actual living arrangements;
- (b)            An Adult is a person 18 years or older;
- (c)            A Family or Household is one or more persons who occupy a subsidized rental unit whether or not they are listed on the lease;
- (d)            A Live-In Aide that is approved as a reasonable accommodation in accordance with Chapter 74 of this Title 14 shall be included in the household composition;
- (e)            The Unit Size for determining the maximum subsidy remains the same as long as the family composition remains the same;
- (f)            The Unit Size for subsidy determination purposes is based on the family composition, not the actual unit size rented; and
- (g)            Unit Size is calculated generally based on one bedroom, or other room available for sleeping purposes, to every two people in the household

composition, based on the guidelines in Subsection 7701.2 through Subsection 7701.4 below and Section 7702 below.

- (h) The voucher size determination may assume rooms other than bedrooms may be used for sleeping purposes.

7701.2

The following are the guidelines for determining the voucher size:

- (a) Spouses and persons living in spousal relationships share a bedroom.
- (b) Related adults of the same gender share a bedroom.
- (c) Unrelated adults of the opposite gender should have separate bedrooms.
- (d) A minor child, of either gender, does not share a bedroom with any adult.
- (e) Minor children of the opposite sex share a bedroom until one of the children reaches the age of 3.
- (f) An approved Live-In Aide will generally be allocated a separate bedroom, or other living area considered as the additional room, in determining the voucher size.
- (g) Single persons qualify for a one bedroom voucher.

7701.3

The standard for voucher size by household size is as follows:

Voucher Size	Persons in Household (Minimum #)	Persons in Household (Maximum #)
0 Bedroom	1	1
1 Bedroom	1	2
2 Bedrooms	2	4
3 Bedrooms	3	6
4 Bedrooms	4	8
5 Bedrooms	6	10
6 Bedrooms	8	12

7701.4

Exceptions to the standard voucher size determinations include the following:

- (a) DCHA may grant exceptions from the subsidy standards set forth in Subsection 7701.2, Subsection 7701.3, and Subsection 7701.4 above if, in its sole discretion, DCHA determines that an exception is justified by the relationship, age, gender, health, or disability of family members or other individual circumstances;

- (b) A request for a larger size voucher than otherwise provided by the above subsidy standards, must be made in writing within fifteen (15) days of DCHA determination of voucher size;
- (c) The request must explain in writing the justification for a larger voucher size;
- (d) DCHA may require documentation verifying the need or justification; and
- (e) Requests for reasonable accommodation for a family member with a disability, including requests for Live-In Aides, must be documented by a health-care provider and may be processed through DCHA's ADA/504 Coordinator in accordance with Chapter 74 hereof.

**7702 UNIT SIZE SELECTION**

7702.1 Unit Size selection is such that a family may select a dwelling unit of a size different than the size listed on the voucher issued as long as the gross rent (contract rent plus any utility allowance) does not exceed the greater of the payment standard as determined under Chapter 83 hereof or the maximum tenant paid rent under Section 7800.3 of this Title 14, and subject to the additional limitations in this Section 7703 below, particularly Subsection 7702.4.

7702.2 Subsidy limitation is as follows, DCHA will apply the payment standards for the smaller of:

- (a) The bedroom size shown on the voucher, or
- (b) The size of the actual unit selected by the family.

7702.3 The utility allowance used to calculate the gross rent shall be based on the actual size of the unit the family selects, not the bedroom size shown on the voucher.

7702.4 Minimum Unit Size permitted is such that the Housing Quality Standards require that there be no more than two persons per the number of rooms in the unit available for sleeping, including the living room, the bedrooms, and any other living rooms, excluding the kitchen, hallways, bathrooms, closets, etc. The maximum number of persons by Unit Size is set forth in the chart below.

<u># of Rooms Available for Sleeping</u>	<u>Maximum # of Persons in Household</u>
0 Bedroom/1 Living Room	2
1 Bedroom/1 living Room	4
2 Bedrooms/1 Living Room	6
3 Bedrooms/1 Living Room	8

4 Bedrooms/ 1 Living Room	10
5 Bedrooms/1 Living Room	12
6 Bedrooms/1 Living Room	14

**7703****HOUSEHOLD SIZE DETERMINATIONS**

## 7703.1

Accurate household composition information is necessary because of the following:

- (a) The membership composition of the Household is essential to determining how adjusted Household income is calculated, as well as the eligibility for a particular voucher size.
- (b) It is critical that the Household composition be reported and determined accurately as the addition or absence of Adult members of the Household affects not only the size of the voucher the Household is qualified for, but also the income that must be counted toward total family income.

## 7703.2

Absence or presence in the Household is as follows:

- (a) A temporary absence is defined as absent and away from the unit up to one hundred eighty (180) consecutive calendar days, including absence for military duty. The income and voucher subsidy calculations will include the income of a spouse or head of Household, or any other Adult, that is temporarily absent, even if the person is not on the lease.
- (b) Except as set forth below, any member of the Household will be considered permanently absent, and excluded from the Family composition for purposes of determining income and subsidy, if the Family member is away from the dwelling unit for six (6) consecutive months regardless of the reason, including court ordered absences provided that third party documentation is provided in accordance with Section 7706 hereof.
- (c) The determinations of temporary and permanent membership in the household are made as set forth in the following Subsection 7703.3 through Subsection 7703.10.
- (d) Temporary or permanent status is determined based on sworn declarations, documentation and verification, as further described in Section 7706 hereof.
- (e) In order to make the determinations as to whether a Household member will be deemed to be temporarily or permanently absent, the days or months will be calculated from the later of:
  - (i) The time the Family reported the change to DCHA; or
  - (ii) The time DCHA learns of the change from a non-Family source.

7703.3 If an Adult member of the Household goes in to the military and is away for more than one hundred eighty (180) consecutive days, they will be determined to be permanently absent.

7703.4 Minor children may fall under the following:

- (a) A foster child or child under guardianship or other legal relationship is included in the Household composition when determining Household size;
- (b) An applicant Family where a member of the Household is pregnant, and such pregnancy is verified by a third party, will include the unborn child as an additional Household member for purposes of determining the Unit Size;
- (c) Children who are subject to a joint custody agreement and live in the unit at least fifty percent (50%) of the time, that being at least one hundred eighty one (181) days a year (which do not have to be consecutive), will be included as permanent members of the Household; those staying less will not be included, and will be considered visitors; or
- (d) If a child (or children) are removed from the Household by legal action, the child(ren) will not be included in the Household composition.

7703.5 Temporary custody includes the following:

- (a) If a single parent leaves the Household and there is an Adult already on the Household composition who has temporary custody to take care of the child(ren) while the parent is away, the Household is not terminated from the program.
- (b) If a single parent leaves the Household and another Adult not already on the Household composition has temporary custody to take care of the child(ren) while the parent is away, the Household is not terminated from participation in the program; or
- (c) Reexamination and adjustments to income or size of voucher assistance will only be made if the temporary custodian stays longer than six (6) consecutive months.

7703.6 Full-time students, other than the head of Household or spouse, attending school away from home, regardless of age, will be considered for Household size and income determinations as follows:

- (a) If such a student lives with the Family during school recesses and visits no more than one hundred eighty (180) days a year, the Family may elect to have the student classified as either temporarily or permanently absent.
- (b) If the Family elects temporarily absent status, the full-time student's income only up to \$480 per year will be counted as Family income, and the student will be included in the Unit Size.
- (c) If the Family elects permanently absent status then the Unit Size will be reduced accordingly and no income of the student will be included.

7703.7

Absence due to incarceration is defined as follows:

- (a) If the sole member of the Household is incarcerated for more than one hundred eighty (180) consecutive days, the member will be considered permanently absent and will be terminated from the program.
- (b) If any member of a multi-person Household is incarcerated for more than six (6) consecutive months, they shall be deemed to be permanently absent and excluded from the subsidy and income calculations hereunder.

7703.8

Absence due to medical reasons is defined as follows:

- (a) The Household shall provide documentation, subject to DCHA verification, that the confinement is expected to be more than one hundred eighty (180) consecutive days.
- (b) If the absence is greater than one hundred eighty (180) days, then:
  - (i) The Family member will be considered to be permanently absent and the voucher size and subsidy will be adjusted; or
  - (ii) If the participant is the sole member of the Household, assistance will be terminated.

7704

#### VISITORS AND UNAUTHORIZED OCCUPANTS

7704.1

Any Adult not included in the Household's composition that has been occupying, visiting, or otherwise staying in the unit for more than thirty (30) consecutive days without DCHA's written approval, or a total of one hundred eighty (180) days in a twelve (12) month period with written approval, will be considered, at DCHA's discretion, either:

- (a) An unauthorized occupant, or

- (b) A permanent member of the Household for income determination and subsidy purposes from the beginning of the award of the voucher.

7704.2 An unauthorized Household member determination will be based on:

- (a) Absence of evidence of any other address or verification that the visitor is a member of another Household;
- (b) Statements from neighbors, the landlord, DCHA inspectors, police or other official governmental investigators; or
- (c) Use of the unit address as the "visitor's" current residence for any purpose, such as billing, receipt of mail matter, statements to police or other governmental authorities, all of which shall be construed as evidence of permanent residence.

7704.3 If the individual is determined to be an unauthorized occupant it shall be the responsibility of the Family to provide DCHA with the information necessary to add the individual to the Household composition within thirty (30) days of notice by DCHA.

7704.4 If the individual is ineligible or the Family fails to timely provide the information needed to determine eligibility then it will be the owner's responsibility to enforce their lease to end the unauthorized occupancy.

#### 7705 **TERMINATION FOR ABSENCE OF ENTIRE FAMILY**

7705.1 Assistance will be terminated to a Family if, for one hundred eighty (180) consecutive days or more:

- (a) The entire Family is absent from the unit, even if the Family has not officially terminated their lease properly or possessions are still in the unit, or
- (b) There are persons residing in the unit who are not listed on the Household composition for subsidy purposes.

7705.2 Determinations of absence may be made by DCHA based on any two or more of the following:

- (a) Failure of the Family to respond to written correspondence;
- (b) Return of mail matter for addressee unknown or no longer present;
- (c) No response to telephone calls to the Family at the unit;
- (d) Interviews with the landlord and/or neighbors;

- (e) Termination or non-use of utilities;
- (f) Postal service has a written notice of forwarding address; and
- (g) Official notice or credible information from an institution or other source, that a person is confined to a medical or penal institution and will be so for one hundred eighty (180) days or more.

7705.3 If absence is due to a disability, and the Family can verify that the person was unable to notify DCHA of an anticipated absence, or within thirty (30) days after an unanticipated absence, the Family may request a reasonable accommodation in accordance with Chapter 74 hereof. The family may request a reasonable accommodation for an absence period up to one hundred eighty (180) days, prior to termination of assistance.

**7706 REPORTING CHANGES IN HOUSEHOLD COMPOSITION AND VISITORS**

7706.1 Any additional person, whether a Family member or a visitor, must be reported to the owner/manager. Any person staying more than thirty (30) days must obtain the written permission of the owner to allow them to continue in residence as a visitor.

7706.2 Any additional member or absent member of the Household, whether permanently or temporarily present or absent for more than thirty (30) days, must be declared in writing to DCHA. Changes may affect the Total Tenant Payment and voucher Subsidy available to the Family at that time or at reexamination.

7706.3 Documenting a permanent absence is such that:

- (a) If a Household member permanently leaves the Household, the Family must:
  - (i) Report the change to DCHA;
  - (ii) Affirmatively by a sworn and attested affidavit, state that the Household member is permanently absent; and
  - (iii) Provide third party documentation of the permanent absence.
- (b) Documentation may include:
  - (i) Court papers instituting divorce or legal separation proceedings;
  - (ii) A judge ordered stay-away order;

- (iii) Removal of the spouse from the lease and copy of the spouse's new lease;
- (iv) Court or prison documentation as to length of incarceration;
- (v) Third party billing matter with the new address such as:
  - (A) Utility bills;
  - (B) Canceled checks for rent from a different address; or
  - (C) Lease or other rental agreement in the former member's name at the new location;
- (vi) Statements from other governmental agencies; or
- (vii) Other third party verification as may be accepted as reliable by DCHA in its discretion.

7706.4

If the unit occupied by a Family no longer meets the standards for voucher size set forth in Sections 7701, 7702, and 7703, at the request of the Family, DCHA will issue a transfer voucher and the Family may move in accordance with the provisions of Chapter 85 hereof to an appropriately sized unit. If the change in Family composition reduces the size of the Family, DCHA will not require the Family to attend a voucher briefing. DCHA will make the Housing Assistance Payment on the occupied unit for up to ninety (90) days at the rate before the reduction in the Family size. After the ninety (90) days, if the Family has not moved the Housing Assistance Payment will be reduced based on the Family size.